

**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

IN RE: EAST PALESTINE TRAIN DERAILMENT

Case No. 4:23-CV-00242-BYP

JUDGE BENITA Y. PEARSON

**TRINITY INDUSTRIES LEASING COMPANY'S
MOTION TO DISMISS PLAINTIFFS' FIRST AMENDED
MASTER CONSOLIDATED CLASS ACTION COMPLAINT
UNDER FEDERAL RULES OF CIVIL PROCEDURE 12(b)(2) AND 12(b)(6)**

Defendant Trinity Industries Leasing Company ("Trinity") by and through its undersigned counsel, files this Motion to Dismiss Plaintiffs' First Amended Master Consolidated Class Action Complaint pursuant to Federal Rules of Civil Procedure 12(b)(2) and 12(b)(6). First, personal jurisdiction does not exist over Trinity in Ohio. Second, Plaintiffs' negligence and gross negligence claims are preempted by federal law, including the Federal Railroad Safety Act ("FRSA") and the Hazardous Materials Transportation Act ("HMTA"). Third, Plaintiffs' negligence and gross negligence claims are not adequately pled. Fourth, Plaintiffs' medical monitoring claims are barred because (i) medical monitoring is not a viable claim under Ohio law and (ii) those claims are not supported by competent underlying allegations of tort liability. Trinity relies upon the accompanying Memorandum to set forth the legal basis supporting this Motion.

WHEREFORE, Defendant Trinity Industries Leasing Company respectfully requests that the Court grant this Motion to Dismiss and dismiss Plaintiffs' Complaint against Trinity in its entirety, award Trinity its costs and reasonable attorneys' fees incurred in defending this action, and grant Trinity such further and other legal and equitable relief as may be just under the circumstances.

Dated: September 26, 2023

Respectfully submitted.

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CERTIFICATE OF SERVICE

I hereby certify that on September 26, 2023, I caused a copy of the foregoing to be filed with the Clerk of the Court using the Court's CM/ECF electronic filing system, which will provide electronic notice to all counsel of record.

/s/ Ronald W. Breaux

Ronald W. Breaux